

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 18,371
)	
Appeal of)	
)	

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying her application for General Assistance (GA) retroactively for the period October 2002 through February 2003. The issue is whether during that period the Department failed to inform the petitioner of the availability of the GA program based on the information the Department had at that time.

FINDINGS OF FACT

1. The petitioner is a single woman who was in the midst of some personal upheavals in her life during the period at issue in this matter. Until September 30, 2002, she was receiving unemployment compensation.

2. In October 2002 the petitioner filled out an application for Food Stamps and medical benefits from the Department. The application form used by the Department does not contain any information about the GA program. The

petitioner alleges that at the time she applied she also needed help paying for prescription medications and for personal needs and incidentals, but that neither the form nor anyone at the Department whom she spoke to when she applied informed her of the potential availability of GA coverage for those needs.

3. On the basis of her application the Department found the petitioner eligible for Food Stamps and VHAP, which she has continued to receive since October.

4. In late February 2003 the petitioner was informed by a third party that she might be eligible for GA. When she applied, the Department found her eligible for GA based on medical information provided by the petitioner that she is currently unable to work. The Department has granted the petitioner GA since March 2003 for prescription medications and personal needs and incidentals on this basis.

5. The petitioner alleges that she has been unable to work since October 2002 and that had she known of the existence of the GA program she would have applied for it at the same time she first applied for Food Stamps and VHAP. The petitioner maintains that she should now be paid GA retroactively due to the Department's failure to inform her of the existence of that program.

6. At the hearing in this matter, held on April 18, 2003, the petitioner was shown copies of the applications on October 14, 2002 and January 13, 2003 that led to the Department granting her Food Stamps and VHAP. One of the questions on the applications is: "Is there anyone in the home between the ages of 16 and 65 who is not able to work or who is not able to care for the home (and children if any) due to a physical or mental problem?" On both applications the petitioner checked "No" to this question.

7. The petitioner does not dispute that she filled out the applications in that manner, but she maintains that she was under a lot of stress at the time and didn't understand that question. There is no indication that the petitioner had any difficulty with any other part of the applications; and from her demeanor at the hearing there is no indication that the petitioner suffers from any deficit in intellectual functioning.

ORDER

The Department's decision is affirmed.

REASONS

A person without dependents who is under fifty-five years of age, who has more than an eighth grade education, and who has work experience in the recent past can only receive general assistance benefits to meet emergency needs if he or she is not "able-bodied." W.A.M. 2600 (B). "Able-bodied" is defined in the regulations as follows:

No physical or mental impairment exists which prevents the person from working. A person shall not be considered able-bodied if currently unable to work in any type of employment due to physical or emotional problems that have lasted or presumably will last at least 30 days. This eligibility factor must be verified by a signed statement from a physician or licensed practitioner whose services would be covered under Medicaid were the GA applicant a Medicaid recipient. The Department shall pay the reasonable expense of required medical examinations but may require, and pay for a second opinion.

W.A.M. § 2601

As noted above, the petitioner admits that when she applied for benefits in October 2002 and January 2003 she clearly and conspicuously indicated on her applications that she did not have a physical or mental disability that would keep her from working. In light of this, and given the fact that a single individual of the petitioner's age is not eligible to receive GA unless he or she is disabled, in retrospect it cannot be concluded that the worker who took the

petitioner's applications was culpably negligent in failing to advise the petitioner to apply for GA at that time.

As noted above, as soon as the petitioner alleged and verified that she was unable to work, the Department granted her GA. However, based on the above, there is no compelling factual or legal basis for the Board to order the Department to pay the petitioner any GA benefits retroactively. 3 V.S.A. § 3091(d), Fair Hearing No. 17.

#